



WEB COPY



W.P.Nos.26839 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2024

CORAM :

THE HON'BLE MR.D.KRISHNAKUMAR, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.B.BALAJI

W.P.No.26839 of 2024

R.Muralidharan

.. Petitioner

Vs

1.The District Collector,
Coimbatore District,
Coimbatore.

2.The Director of Town and Country Planning,
4th Floor, Chengalvarayan Building,
807, Anna Salai,
Chennai-600 002.

3.The Commissioner,
Coimbatore Corporation,
Coimbatore – 641 001.

4.The Member Secretary,
Local Planning Authority,
Tatabad,
Coimbatore-641 012.

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari calling for the records of the third respondent by proceedings in NAKA No.5978/2013/H1(W) dated 28.08.2024 and quash the same.



W.P.Nos.26839 of 2024

WEB COPY

For the Petitioner : Mr.P.Saravana Sowmiyan

For Respondents : Mr.T.K.Saravanan
Government Advocate
for respondents 1, 2 and 4

: Mr.N.Umapathi
Standing Counsel
for respondent No.3

ORDER

(Order of the Court was made
by the Hon'ble Acting Chief Justice)

Questioning the legality of the order dated 28.8.2024 passed by the second respondent directing the petitioner to remove the encroachment, the present writ petition is filed.

2. Learned counsel for the petitioner submits that the petitioner is the absolute owner of the writ subject land and based on the no-objection granted by the fourth respondent the land was developed, but all of a sudden the second respondent had issued the impugned order directing the petitioner to remove the encroachment. It is further submitted that though the land



W.P.Nos.26839 of 2024

comprised in SF No.71/1F is treated as reserve site, the same was never gifted to the third respondent and, therefore, the third respondent has no right to claim the property.

3. Per contra, learned counsel for the respondents, in one voice, submitted that the petitioner has encroached on the land reserved for public purpose. The petitioner was afforded sufficient opportunity before passing the impugned order, which itself was passed based on the earlier orders passed by this Court in W.P.No.3873 of 2017 and batch cases, on 26.2.2024.

4. We have heard learned counsel on either side and perused the documents available on record.

5. Before advertng to the merits of the matter, it is seemly to refer to the decision of the Apex Court in the case of **Association of Vasanth Apartments' Owners v. V.Gopinath and others, 2023 SCC OnLine SC 137**, wherein the following direction is issued:



W.P.Nos.26839 of 2024

WEB COPY

"184. ...

VI. *The areas covered by the OSR cannot be diverted for any other purpose. The respondents are duty-bound to ensure that the area set apart as OSR is stringently utilised only for the purpose in the Rule/Regulation. We direct that no area meant for OSR shall be utilised as dumping yards or any other purpose other than as OSR.*

[emphasis supplied]

6. In the instant case, it is beyond any cavil that the land in question is a reserve site for public purpose, viz., for establishment of a school. The law enunciated by the Apex Court in the decision, referred supra, mandates that the land in an approved layout set apart as OSR is to be stringently utilised for the said purpose, without any deviation.

7. The petitioner had knocked the doors of this court on four occasions prior to the present writ petition raising one ground or the other against a similar action initiated by the respondents. This is



W.P.Nos.26839 of 2024

fifth writ petition filed in respect of the very same land earmarked for public purpose. Such a conduct of the petitioner cannot be appreciated and we do not find any merits in the writ petition.

8. At this juncture, learned counsel for the petitioner submitted that the petitioner may be permitted to convert the existing building into a school.

9. The said request has to be considered by the authorities concerned based on the relevant statutes and government orders applicable. It is not for this court exercising jurisdiction under Article 226 of the Constitution of India to direct conversion of the building into a school. In any event, as a last chance, we grant two weeks' time to the petitioner to make necessary representation/application to the competent authority in this regard. On receipt of the said representation/application, the authority concerned shall consider the same, on merits and in accordance with law, and pass appropriate orders within two months thereafter. If the authority does not accede to the request made by the



W.P.Nos.26839 of 2024

petitioner, then the petitioner shall handover the writ subject property to the respondents without any protest and without knocking the doors of this court once again in respect of the same issue.

The writ petition is dismissed. There shall be no order as to costs. Consequently, W.M.P.No.29356 of 2024 is closed.

(D.K.K., ACJ.) (P.B.B, J.)
11.09.2024

Index : Yes/No
NC : Yes/No
sasi

To:

- 1.The District Collector,
Coimbatore District,
Coimbatore.
- 2.The Director of Town and Country Planning,
4th Floor, Chengalvarayan Building,
807, Anna Salai,
Chennai-600 002.
- 3.The Commissioner,
Coimbatore Corporation,
Coimbatore – 641 001.
- 4.The Member Secretary,
Local Planning Authority,
Tatabad, Coimbatore-641 012.



WEB COPY



W.P.Nos.26839 of 2024

THE HON'BLE ACTING CHIEF JUSTICE
AND
P.B.BALAJI, J.

(sasi)

W.P.No.26839 of 2024

11.09.2024